

The Growth of **INCARCERATION** in the United States

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ISSUE BRIEF

Sentencing Policy

After decades of stability, U.S. federal and state prison populations escalated steadily between 1973 and 2009, growing from about 200,000 people to 1.5 million. The increase was driven more by changes in policy -- measures that imprisoned people for a wider range of offenses and imposed longer sentences -- than by changes in crime rates. Has this greater reliance on incarceration yielded significant benefits for the nation, or is a change in course needed?

To answer that question, a committee of the National Research Council examined the best available evidence on the effects of high rates of incarceration. The committee found no clear evidence that greater reliance on imprisonment achieved its intended goal of substantially reducing crime. Moreover, the rise in incarceration may have had a wide range of unwanted consequences for society, communities, families, and individuals. The committee's report, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, urges policymakers to reduce the nation's reliance on incarceration and seek crime-control strategies that are more effective, with better public safety benefits and fewer unwanted consequences.

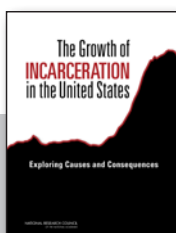


Severe Sentencing Policies Did Not Clearly Yield Substantial Benefits

The growth in imprisonment rates during recent decades was driven largely by changes in sentencing policy that sent more people to prison for longer periods of time but which do not appear to have substantially improved public safety. Between 1975 and 1995, all 50 states and the federal government reduced judges' discretion in sentencing by mandating imprisonment for a wide variety of offenses. These policies included:

- mandatory prison sentences for most drug crimes and long sentences for violent crimes and repeat offenses;
- "three strikes" laws that lengthened sentences, requiring minimum sentences of 25 years or longer for some offenses; and
- "truth in sentencing" laws, which require those affected to serve at least 85 percent of their prison sentences.

Contrary to policymakers' expectations, greater reliance on incarceration did not clearly yield substantial crime-control benefits. During the four decades when incarceration rates steadily rose, crime rates showed no clear trend. Studies show that the size of the crime-reduction effect of increased incarceration is highly uncertain and is unlikely to have been large. In addition, evidence shows that lengthy sentences are an inefficient approach to controlling crime; rates of re-offending drop significantly as people age, and so very



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long sentences incarcerate people whose likelihood of committing further crimes is low even if they were not imprisoned.

In addition, evidence indicates that the rise of incarceration may have had a range of unwanted consequences. As the footprint of the criminal justice system has expanded, so have its effects on society, communities, families and individuals. Between 1980 and 2000, for example, the number of children with incarcerated fathers grew from 350,000 to 2.1 million. Harsh penal policies have left the largest imprint on poor minority neighborhoods that already suffer from an array of other social, economic, and public health disadvantages. African American men under age 35 who did not finish high school are now more likely to be behind bars than employed.

Policymakers Should Reconsider Sentencing Policies

Because the dramatic growth in incarceration in recent decades has not clearly yielded large crime-prevention benefits and may have imposed a wide range of unwanted social, financial, and human costs, policymakers should revise current criminal justice policies to significantly reduce the use of incarceration. Sentencing policies should be reconsidered, especially:

- **Lengthy sentences.** Unless they can be targeted to very high-rate or extremely dangerous offenders, lengthy sentences are an inefficient approach to preventing crime.
- **Mandatory minimum sentences.** While the main rationale for mandatory minimums was to deter people from committing crimes, evidence suggests that they have little or no deterrent effect.
- **Policies on enforcement of drug laws.** The strategy known as the war on drugs has been a significant driver of the growth in imprisonment, but it did not clearly reduce drug use and was accompanied by a significant drop in drug prices. Alternative responses that rely less on incarceration and more on health care measures may both reduce the social and economic costs of imprisonment and improve public health.

As society reduces its heavy reliance on imprisonment, public officials will need an expanded set of tools with which to respond to crime. Research is needed to evaluate the effects of sentencing policies that do not involve incarceration and of programs designed to serve as alternatives to imprisonment.

Principles to Guide Policy

In a democratic society, policymakers need to consider not only empirical evidence but also principles and values as they determine policies for punishment. The following four principles have helped shape criminal justice in the United States and Europe for hundreds of years. Policymakers should consider these principles as they weigh sentencing and prison policies:

- **Proportionality:** Is the severity of sentences appropriate to the seriousness of the crime?
- **Parsimony:** Is the punishment the minimum necessary to achieve its intended purpose?
- **Citizenship:** Do the conditions and consequences of punishment allow the individual to retain his or her fundamental status as a member of society, rather than violating that status?
- **Social justice:** Do prison policies promote and not undermine the nation's aspirations to be fair in terms of the rights, resources, and opportunities people have?

These principles should complement the objectives of holding offenders accountable and combating crime. Together, they help define a balanced role for the use of incarceration in U.S. society.

This issue brief is one in a series prepared by the Committee on Law and Justice based on the report *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. The study was sponsored by the U.S. Department of Justice and the John D. and Catherine T. MacArthur Foundation. Any findings, conclusions, or recommendations expressed in this publication are those of the study committee and do not necessarily reflect those of the sponsors.